



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
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January 20, 2012

CERTIFIED MAIL--Return Receipt Requested

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in November 2011; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency ("EPA") entered into a Consent Decree (the "Decree") to further the objectives of the Resource Conservation and Recovery Act ("RCRA") and the Clean Water Act ("CWA"). On December 9, 2009, the Montana Environmental Trust Group, LLC, Trustee of the Montana Environmental Custodial Trust (the "Custodial Trust") was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust have finalized a First Modification to the Decree that conforms to the terms of the Settlement Agreement. The First Modification to the Decree, as approved by the parties, was filed with the Court on January 17, 2012. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during August 2011. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

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SECTION 1. DESCRIPTION OF ACTIVITIES FOR NOVEMBER 2011

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
1. Draft Phase II RFI	Hydrometrics/ GSI	The Custodial Trust provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No Data Submittal	No problems encountered.	90%
2. 2011 Field Sampling and Analysis Plan (FSAP)	Hydrometrics	<ol style="list-style-type: none"> All 2011 FSAP monitoring activities were completed the week of November 20th. This included surface water flow/stage measurements at 22 PPC and 11 pond/ditch locations; static water levels in 166 wells; and water quality samples from 31 groundwater monitoring wells and 10 residential/PWS wells. The Custodial Trust is working with Gary Burnham on revised grazing plans associated with the access agreement required to drill and sample three wells to define the leading edge of the selenium plume located on Burnham's property. 	Continuous and ongoing updates to the Site Database.	No problems encountered.	100%
3. Groundwater and Surface Water Monitoring	Hydrometrics	All 4 th Quarter groundwater and surface water monitoring was completed in November 2011.	No Data Submittal	No problems encountered.	100%
4. Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP were completed by August 12 th	No problems encountered.	85%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
5. Corrective Measures Study (CMS)	CH2M-Hill	<ol style="list-style-type: none">1. The Custodial Trust and EPA issued comments on the Draft CMS Work Plan to CH2M-Hill on November 7th and 8th.2. The Custodial Trust received five (5) SOQ submissions for the groundwater modeling and hydrogeological services Request for Qualifications (RFQ) issued on October 20th.3. The Custodial Trust and CH2M-Hill senior management met to discuss major activities and issues related to 2011 and 2012 work.	The Custodial Trust received 5 SOQ submissions to the RFQ.	No problems encountered.	75%

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
6. South Plant Hydraulic Control (SPHC)	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ol style="list-style-type: none"> 1. Applied Geomorphology Inc. (AGI) completed fieldwork on November 13th for the Prickly Pear Creek habitat and geomorphological assessment required for the SPHC 2. The Custodial Trust and Hydrometrics collected well and surface water samples to monitor response to the SPHC aquifer test. 3. The Custodial Trust, EPA and PTS met with the project manager from the U.S. Army Corps of Engineers on November 8th to review natural resource permitting scope and requirements for the SPHC interim measure. 4. The Custodial Trust made a presentation on the SPHC interim measures to the Lake Helena Watershed Group on November 17th. 5. CH2M-Hill and its subcontractors completed preliminary permit research, wetlands delineation assessment and wetland delineation report for the SPHC interim Measure. 6. Hydrometrics downloaded data from 42 well transducers for further analysis of aquifer response to the UL test. 	<p>East Helena personnel distributed daily progress and data reports for the SPHC aquifer test to the beneficiaries.</p> <p>CH2M-Hill submitted a wetlands delineation report and wildlife resources report on November 18th.</p> <p>Hydrometrics submitted graphs of transducer data from the UL aquifer tests.</p>	No problems encountered.	55%
7. Baseline Ecological Risk Assessment (BERA)	Gradient	<ol style="list-style-type: none"> 1. The Custodial Trust submitted draft final documents for the BERA to EPA and USFWS on November 13th. 2. Gradient request partial payment for outstanding amounts owed under the BERA contract on November 18th. 	Draft Final documents for the BERA were submitted on November 13 th .	No problems encountered.	95%
8. Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	CH2M-Hill completed the first draft of the HHRA on November 11 th and is undergoing internal review prior to submittal to the Custodial Trust.	No Data Submittal	No problems encountered.	85%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
9. Consent Decree Modification	Custodial Trust/DOJ	<ol style="list-style-type: none"> 1. The Custodial Trust confirmed the title to the southernmost portion of Parcel 23 was conveyed to the Custodial Trust on November 1st. 2. The Custodial Trust and USDOJ agreed on incorporating language related to the CAMU #2 Trust in the first modification of the 1998 Consent Decree. USDOJ is securing final signatures for entry of the Consent Decree in US Federal District Court by year end. 		No problems encountered.	95%
10. Groundwater Technical Working Group (TWG)-Groundwater Model Work Plan	Custodial Trust/EPA/MDEQ/MDOJ	The Custodial Trust received five (5) SOQ submissions for the groundwater modeling and hydrogeological services Request for Qualifications (RFQ) issued on October 20th.	The Custodial Trust received 5 SOQ submissions to the RFQ.	No problems encountered.	- %
11. Regulatory Compliance	Custodial Trust	<ol style="list-style-type: none"> 1. WTS executed a letter agreement authorizing preparation and submittal of monthly DMR's and the semi-annual DMR's. 2. Routine inspections of health and safety systems, CAMU's, temporary liners and hazardous waste roll-offs were completed. 3. Completed minor repairs to temporary liners. 4. The Custodial Trust and Hydrometrics negotiated cost and personnel options for on-Site regulatory compliance and health and safety staffing. 	October 2011 DMR's submitted to MDEQ on November 22 nd .	No problems encountered.	On Going

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
12. Health and Safety	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust continued working on options for relocating the Custodial Trust administrative offices to address health and safety issues created by the buildings location on the slag pile. 2. The Custodial Trust met with the East Helena health and safety specialist to address training, certification and vehicle decontamination procedures applicable to vendors, suppliers contractors and other users of the property who require regular access to the site. 			On Going
13. Site Security	Custodial Trust	<ol style="list-style-type: none"> 1. East Helena personnel found the chain on the gate at the entrance to South Montana Avenue had been cut with no evidence of trespass or property damage and the chain was replaced. 2. East Helena personnel repaired a breach in the fence that controls access to the East Fields soil repository. It was not clear when the fence was cut, but no evidence of trespass or property damaged was found. 3. Approximately 100 feet of fencing between the soil repository and the railroad right of way had been knocked down and damaged by heavy equipment. The Custodial Trust plans to make arrangements to have the fence repaired. 4. East Helena personnel installed additional "no trespassing" signs on the eastern soil repository perimeter fence. 	No Data Submittal	<p>Chain cut on South Montana Avenue entrance gate.</p> <p>Breach in East Field soil repository access fence.</p> <p>100 feet of fence damaged between soil repository and railroad right of way.</p>	Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
14. Water Treatment Plant	Custodial Trust	<ol style="list-style-type: none"> 1. East Helena personnel completed a materials inventory required to move the hydrogen sulfide sensors to the location where sodium sulfide is currently being injected into the HDS process. 2. East Helena personnel operated the HDS water treatment plant on November 29th and 30th and discharged 155,000 gallons of effluent to Lower Lake. 	No Data Submittal		Ongoing
15. Plant Operations	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust and EPA agreed to allow the City of East Helena DPW to place 300 cubic yards of slag-containing material excavated from under the East Helena Main Street Bridge at a location along the closed section of road near Air Liquide. 2. Environmental Materials inspected the four on site silos and advised the Custodial Trust of their interest in purchasing three of them. 3. The Custodial Trust provided photographs of the interior of the former Asarco Manger's house. 4. Material pumped from the PRB by EPA representatives was disposed of in the HDS system. 5. East Helena personnel began reviewing and sorting documents and records stored the bathhouse. 	No Data Submittal		Ongoing
16. Personnel and Office Operations	Custodial Trust	On November 3 rd , Pam Norris was released as a consultant.	No Data Submittal		Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
17. Financial Affairs	Custodial Trust	<ol style="list-style-type: none"> 1. The Custodial Trust finalized and submitted to EPA the Preliminary EHCUC Budget on November 1st. 2. Galusha launched its web-based system (eBridge) for managing financial data information. 3. The Custodial Trust submitted a request for EPA authorization to increase the 2011 budget for Level 2 Cost Center II.N-Financial Affairs to fund additional work by Galusha for EH financial and to CH2M-Hill for project control activities. 	<p>Submitted Preliminary EHCUC Budget to EPA on November 1st.</p> <p>Submitted request to EPA for 2011 budget increase for Level 2 Cost Center II.N Financial Affairs on November 18th.</p>		Ongoing

Activity	Performing Entity	Description	Data Submittal	Problems Encounters	Percent Complete
18. Property Use/ Development	Custodial Trust	<ol style="list-style-type: none"> 1. The Mayor of East Helena advised the Custodial Trust and EPA that several nearby residents had observed dust created by plowing the agricultural lands south and east of the CAMU's. The Custodial Trust plans to follow up with Chip Foster, the farmer who is growing crops on the land. 2. Slag reprocessing continued in November 2011. An alternative water source for dust suppression was identified by H&H Metals due to no water being available from Upper Lake. Protocols have been established for weighing crushed slag processed on site and delivered to Trail, B.C. for purposes of invoicing H&H Metals. 3. CTA provided the Custodial Trust with its analysis and recommendation related to the proposed land conveyances depicted on the Dartman property survey provided by Reis Surveying. A number of issues were identified with the survey including the proposed boundary relocation for the L&C Search and Rescue facility parcel, creation of new public access easement across the Dartman property, and several other changes proposed by Reis that deviate from the beneficiary approved transfers to the City and County. 	No Data Submittal	<p>Nearby residents observed dust created by plowing the agricultural lands south and east of the CAMU's.</p> <p>One of the twelve rail cars with crushed slag was removed from the tracks near Calgary, AB due to loads in excess of the limit allowed by Canadian Pacific Railroad.</p>	Ongoing
19. Community and Local Meetings	Custodial Trust	<ol style="list-style-type: none"> 1. LEAP Meeting on November 2nd. 2. East Helena Technical meeting on November 3rd, 10th, and 17th. 3. EHECTIC Meeting on November 15th. 4. Presentation of SPHC interim measure plan to Lake Helena Watershed Group on November 17th. 	No Data Submittal	No Problems Encountered	Ongoing

Section 2. Activities Scheduled for December 2011

Task	Performing Entity	Description
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	No activities planned for December 2011.
Baseline Ecological Risk Assessment (BERA)	Gradient	Incorporate changes requested by USFWS and EPA and finalize BERA report.
Corrective Measures Study	CH2M-Hill	<ul style="list-style-type: none"> • Submittal of revised draft CMS work plan. • Submittal of scoring sheets by technical committee for groundwater modeling and hydrogeological services SOQ's on December 12th.
South Plant Hydraulic Control	Hydrometrics, Pioneer Technical Services, CH2M-Hill, Morrison-Maierle, Inc., Applied Geomorphology Inc.	<ul style="list-style-type: none"> • Upper Lake Drawdown test. • Prickly Pear Creek habitat and geomorphological assessment report.
Property Use/Development	East Helena	<ul style="list-style-type: none"> • H&H Metals to continue slag crushing. • CTA analysis of boundary relocation and subdivision issues for proposed L&C County Search and Rescue parcel. • Tour of former Asarco Manager's house with L&C County Historical Society on December 5th. • EPA-NREL renewable energy feasibility study meeting.
Monthly inspection of six temporary cap areas.	TS Consulting	Monthly inspections of the temporary cap areas will continue in December 2011.
CAMU Inspections	TS Consulting/Custodial Trust	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in December 2011.
Water Treatment Plant	Custodial Trust	No plans to operate water treatment plant in December 2011.
Financial Affairs	Custodial Trust	<ul style="list-style-type: none"> • Finalize the 2012 East Helena Cleanup Account budget. • CH2M-Hill to deliver project controls proposal by December 2nd.
City and County Meeting	City of East Helena/L&C County/EPA/Custodial Trust	Meeting regarding changes to parcels approved for conveyance from the Custodial Trust.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/Custodial Trust	Monthly beneficiaries meeting.

Task	Performing Entity	Description
BOH Meeting	EPA/Custodial Trust/BOH	Meeting scheduled on December 1 st .
Meeting with Gary Burnham	Custodial Trust/Gary Burnham	Water rights and grazing lease meeting scheduled on December 4 th .

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in November 2011. A complete listing of projects completed in 2011 will be reported in the January 2012 Progress Report.

Section 4. Describe Actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

Pam Norris was released as a consultant to the custodial trust on November 3rd.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

Marc Weinreich
Vice-President